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February 3, 2005

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Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

Re: **NOTICE OF EX PARTE PRESENTATION**
CS Docket No. 98-120

Dear Ms. Dortch:

On February 2, 2005, the undersigned, along with Billy Senter on behalf of the Rural Television Alliance, Bruce Burton of the International Brotherhood of Electrical Workers, and Manuel Mirabal of the Hispanic Technology and Telecommunications Partnership met with Jon Cody, legal advisor on media issues to Chairman Michael Powell, to discuss certain issues relating to the digital television transition.

Specifically, the parties discussed the impact on consumers and television broadcasters of an FCC decision allowing cable operators to act as gatekeepers with respect to the free, digital multicast programming streams offered by television stations in their local markets. The parties described the public benefits of such programming, including increased diversity and localism and the potential for increased foreign language programming. The parties expressed concern that many segments of the U.S. population, including minority groups, people living in rural areas, and low income Americans, lack adequate information about the digital transition and risk losing access to the programming, including news and entertainment, that is necessary to keep them in the mainstream of American life.

The parties also discussed the important contribution that such additional programming streams can make to the survival of over-the-air television stations and to their viability as competitors to multichannel video programming providers. These additional programming services are also likely to spur consumers to invest in digital technology, thus hastening the digital transition, and to create new jobs for America's skilled communications workers. The parties emphasized, however, that new multicast

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programming offerings will not survive and deliver these benefits if they are not carried by cable systems. The parties also discussed their strongly held view that a multicast must-carry requirement would be upheld as constitutional under the controlling precedent.

The parties urged the Commission to defer action on this issue in light of Congress's express intention to take up comprehensive digital television legislation this year that would adopt a "hard date" for the conclusion of the digital transition. Adopting digital carriage requirements piecemeal against the backdrop of a digital transition statute that is certain to be changed -- particularly when such carriage requirements are unlikely to go into effect for years -- threatens to cause irreparable damage to the digital transition and deny consumers the very benefits it was intended to deliver.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, an original and one copy of this letter have been submitted to the Office of the Secretary, and a PDF version of the letter has been sent by electronic mail to the Commission personnel who participated in the meeting. Questions concerning this submission should be addressed to the undersigned.

Very truly yours,


Margaret L. Tobey

cc: Jon Cody